

REMARKS

Claims 1-3 are currently pending in the application. As discussed during the interview with the Examiner, withdrawn claim 2 remains in the application and it is respectfully requested to be rejoined to the application as a distinctly patentable species claim dependent on independent generic claim 1.

By this amendment, claims 1-3 are amended. The foregoing separate sheets marked as "Listing of Claims" show all the claims in application, with an indication of the current status of each. Claims 1 and 3 have been rejected by the Examiner under 35 USC §§ 101 and 102, second paragraph. The Examiner's rejections are traversed in view of the amendments above and the remarks below.

Claims 1 and 3 stand rejected under 35 USC § 101 as directed to non-statutory subject matter. Claim 1 has been amended to indicate all of the respective steps to a computer. As discussed with the Examiner during the interview, Applicant's emphasis of the computer sufficiently ties the claimed method to another statutory class and sufficiently transforms the underlying subject matter to be statutory. Thus, Applicant respectfully traverses the Examiner's rejections under 35 USC § 101 in regards to claim 1 and its dependent claim 3.

Furthermore, the Examiner rejected claims 1 and 3 under 35 USC § 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such that the omissions amounts to a gap between the necessary structural elements. The amendments to specify the computer, as presented with respect to the § 101 rejection, appropriately indicate the structural elements that are involved with the functionality of Applicant's method. Therefore, in light of the current amendments, Applicant respectfully traverses the Examiner's rejection of claims 1 and 3 under 35 USC § 112, second paragraph.

In view of the foregoing, it is requested that the application be reconsidered, that claims 1 and its dependent claim 3 be allowed, and that the application be passed to issue.

Moreover, with respect to claim 2, in Applicant's 03/18/2009 Response to Requirement for Restrict, Applicant made Examiner's required election between

patentably distinct species, claims 2 and 3, by provisionally electing the multi-round auction described in claim 3. According to MPEP § 809.04:

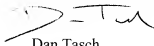
Where the requirement for restriction in an application is predicated upon the nonallowability of generic or other type of linking claims, applicant is entitled to retain in the case claims to the nonelected invention or inventions.

If a linking claim is allowed, the examiner must thereafter examine species if the linking claim is generic thereto, or he or she must examine the claims to the nonelected inventions that are linked to the elected invention by such allowed linking claim.

The Examiner has already indicated that claim 1 is generic. 02/18/2009 Office Action, pg. 2. Thus, as discussed during the interview with the Examiner, subject to the Examiner's allowance of claim 1, Applicant respectfully requests the Examiner consider retention of dependent distinct species claim 2. In addition, upon rejoinder, Applicant respectfully requests for withdrawn claim 2 to be amended, in accordance with the current amendments of claim 3, either by Examiner Amendment or by the Examiner permitting the undersigned an opportunity to amend.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-0510 (IBM-Yorktown).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Dan Tasch', with a stylized flourish at the end.

Dan Tasch
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